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DATE MAILED: 12/15/2004

APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,950		07/10/2003	Yasuji Hiramatsu	237457US90CONT	1089
22850	7590	12/15/2004	EXAMINER		
	•	MCCLELLAND	CLARK, SHEILA V		
	1940 DUKE STREET ALEXANDRIA, VA 22314				PAPER NUMBER
				2815	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			Application No.	Applicant(s)					
S. V. Ctark 2815 - The MALLING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. The period for reply specified above is less than shifty (30) days, a step yet within the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified above is less than shifty (30) days, a step yet, by the considered limely. If the period for reply specified above is less than shifty (30) days, a step yet, within the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified above is less than shifty (30) days, a step yet, within the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified above is less than shifty (30) days, a step yet within the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified shows in the step in the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified above is less than shifty (30) days, a step yet with the datalety minimum of hirty (30) days with be considered limely. If the period for reply specified data with the period of the same and the step yet with the same and the step yet with reply with reply with the datalety and with reply wit		Office Action Summers	10/615,950	HIRAMATSU ET AL.					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. **Interest 3X (6) MONTHS from the mailing date of this communication, If the period for reply specified above, the maximum statutory pariod will apply and will expire 3X (6) MONTHS from the mailing date of this communication, If the period for reply specified above, the maximum statutory pariod will apply and will expire 3X (6) MONTHS from the mailing date of this communication, If the period for reply specified above, the maximum statutory pariod will apply and will expire 3X (6) MONTHS from the mailing date of this communication, If the period for reply specified above, the maximum statutory pariod will apply and will expire 3X (6) MONTHS from the mailing date of this communication, If the period communication is provided by the Office of the thin the new months deliber to mailing date of this communication, even if timely filled, may reduce any available of the specification is provided any specified and provided any specification is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)□ Claim(s) is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)□ Claim(s) is/are allowed. 6)□ Claim(s) is/are allowed. 6)□ Claim(s) is/are allowed. 7)□ Claim(s) is/are objected to. 8)□ Claim(s) is/are objected to. 8)□ Claim(s) is/are is/are: a)□ accepted or b)□ objected to by the Examiner. Application Papers 9)□ The specification is objected to by the Examiner. Application frawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Application frawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)□ The other order drawing sheet(s) including the correction is re									
THE MAILING DATE OF THIS COMMUNICATION. Edifications of time may be available under the provision of 3 CFR 1.13(a). In no event, however, may a reply be timely filled after SIX (b) MONTHS from the mailing date of this communication. If NO provide for reply is specified above, the maximum status or print of way per and we tipe 2 (b) MONTHS from the mailing date of this communication. Fallure to reply visition the set or ordered priority of reply will, by a statute, cause the application to become ARANDONED (35 U.S.C. § 133). Any reply received by the Office date then the here more above, and the three mailing date of this communication, even if timely filled, may reduce any searce places term separates. See 37 CFR 1.78(b). Status 1) Responsive to communication(s) filled on	Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address					
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-6 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1 Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-82) 5) Notice of Informal Patent Application (PTO-152)	Status		•						
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Applicant is to note that the various Information Disclosures filed in this application fail to be submitted in PTO-1449 format. The documents provide no place for initials and signature, which is customary for these forms. Submitting new forms with the proper place for notations are suggested.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain <u>a</u> patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-6 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-16 of prior U.S. Patent No. 6,753,601. This is a double patenting rejection.

Any inquiry concerning this communication should be directed to S. V. Clark at telephone number (571) 272-1725.

S. V. Clark Primary Examiner

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December 11, 2004